IN THE CLAIMS:

The text of all pending claims, (including withdrawn claims) is set forth below. Cancelled and not entered claims are indicated with claim number and status only. The claims as listed below show added text with <u>underlining</u> and deleted text with ~~strikethrough~~. The status of each claim is indicated with one of (original), (currently amended), (cancelled), (withdrawn), (new), (previously presented), or (not entered).

Please CANCEL claims 1, 2 and 7 without prejudice or disclaimer; ADD new claims 10-19; and AMEND the claims in accordance with the following:

Claims 1-2 (Cancelled)

3. (Currently Amended) ~~The~~ <u>An</u> image taking device ~~according to claim 1 or 2, further~~ <u>for taking an image of an object by focusing reflected light from the object on a light receiving portion,</u> comprising:
<u>a measuring portion that measures distances between the image taking device and at least two points in a subject surface of the object;</u>
<u>an exposure control portion that controls exposure time of the light receiving portion upon taking the image in accordance with at least one of the distances measured;</u>
a posture determining portion that determines whether ~~or not~~ the subject surface ~~of the object~~ is perpendicular to an axis along a shooting direction of the image taking device~~, wherein the measuring portion measures distances between the image taking device and at least two points in the subject surface of the object as the distance, the posture determining portion determines whether or not the subject surface of the object is perpendicular to the axis along the shooting direction of the image taking device in accordance with the measurement results of the measuring portion for the points,~~ <u>in accordance with the distances measured;</u> and
~~the~~ <u>an</u> image taking ~~control~~ portion that ~~further controls so as to take an~~ <u>takes the</u> image ~~of the object~~ if it is determined by the posture determining portion that the subject surface ~~of the object~~ is perpendicular to ~~an~~ <u>the</u> axis ~~along the shooting direction of the image taking device~~ <u>and one of the distances measured is within a predetermined range</u>.

4. (Currently Amended) The image taking device according to claim 3, further comprising a guiding portion that ~~guides~~ <u>outputs guidance</u> so that the subject surface ~~becomes~~ <u>is</u> perpendicular to the axis ~~along the shooting direction of the image taking device~~ by producing different signs between ~~the~~ <u>a first</u> case where it is determined that the subject surface ~~of the~~

object is perpendicular to the axis ~~along the shooting direction of the image taking device~~ and ~~the~~ a second case where it is determined that the subject surface ~~of the object~~ is not perpendicular to the ~~same~~ axis.

5. (Currently Amended) ~~The~~ An image taking device ~~according to claim 1 or 2, further~~ for taking an image of an object by focusing reflected light from the object on a light receiving portion, comprising:

a measuring portion that measures a first distance between the object and the image taking device at a first time and a second distance between the object and the image taking device at a second time;

an exposure control portion that controls exposure time of the light receiving portion upon taking the image in accordance with at least one of the first distance measured and the second distance measured;

a still determining portion that determines whether ~~or not~~ the object is still in accordance with ~~the measurement result of the measuring portion that is obtained at an interval of a predetermined time, wherein~~ the first distance measured and the second distance measured;

an image taking ~~control~~ portion ~~further controls so as to take an~~ that takes the image ~~of the object~~ if it is determined by the still determining portion that the object is still ~~by the still determining portion~~ and at least one of the first distance measured and the second distance measured is within a predetermined range.

6. (Currently Amended) ~~The~~ An image taking device ~~according to claim 1 or 2, further~~ for taking an image of an object by focusing reflected light from the object on a light receiving portion, comprising:

a measuring portion that measures a distance between the object and the image taking device;

an exposure control portion that controls exposure time of the light receiving portion upon taking the image in accordance with the distance measured;

an image taking portion that takes the image if it is determined by the measuring portion that the distance is within a predetermined range;

a background storage portion that stores a background image ~~without~~ that is taken when the object is not detected; and

an extracting portion that extracts ~~an~~ a part of the object from the image ~~that includes only the object~~ by comparing the background image with ~~an~~ the image ~~obtained by taking an~~

~~image of the object, wherein the image taking control portion controls so as to take an image when the distance is not measured by the measuring portion that obtains the background image.~~

7. (Cancelled)

8. (Currently Amended) A method for taking an image of an object by using an image taking device that focuses reflected light from the object on a light receiving portion, the method comprising:

measuring ~~a distance~~ distances between ~~the object and~~ the image taking device and at least two points in a subject surface of the object;

controlling exposure time of the light receiving portion upon taking ~~an~~ the image in accordance with ~~the measurement result~~ at least one of the distances measured;

determining whether the subject surface is perpendicular to an axis along a shooting direction of the image taking device in accordance with the distances measured; and

taking ~~an~~ the image ~~of the object~~ if it is determined in said ~~measuring~~ determining that the ~~distance between the object and the image taking device~~ subject surface is perpendicular to the axis and one of the distances measured is within a predetermined range.

9. (Currently Amended) A computer-readable storage storing a computer program for controlling an image taking device including a light receiving portion for receiving reflected light from an object and a distance measuring sensor, the computer program which when executed by a computer makes the computer execute a process comprising:

making the distance measuring sensor measure ~~a distance~~ distances between ~~the object and~~ the image taking device and at least two points in a subject surface of the object;

controlling exposure time of the light receiving portion upon taking ~~an~~ the image in accordance with ~~the measurement result~~ at least one of the distances measured;

determining whether the subject surface is perpendicular to an axis along a shooting direction of the image taking device in accordance with the distances measured; and

taking ~~an~~ the image ~~of the object~~ if it is determined ~~by the distance measuring sensor~~ in said determining that the ~~distance between the object and the image taking device~~ subject surface is perpendicular to the axis and one of the distances measured is within a predetermined range.

10. (New) The computer-readable storage according to claim 9, the process further comprising outputting guidance so that the subject surface is perpendicular to the axis by producing different signs between a first case where it is determined that the subject surface is perpendicular to the axis and a second case where it is determined that the subject surface is not perpendicular to the axis.

11. (New) The method according to claim 8, further comprising outputting guidance so that the subject surface is perpendicular to the axis by producing different signs between a first case where it is determined that the subject surface is perpendicular to the axis and a second case where it is determined that the subject surface is not perpendicular to the axis.

12. (New) An image taking device for taking an image of an object by focusing reflected light from the object on a light receiving portion that converts the light into an electric signal, comprising:

a measuring portion that measures distances between the image taking device and at least two points in a subject surface of the object;

a gain control portion that controls an output gain of the electric signal in accordance with at least one of the distances measured;

a posture determining portion that determines whether the subject surface is perpendicular to an axis along a shooting direction of the image taking device in accordance with the distances measured; and

an image taking portion that takes the image if it is determined by the posture determining portion that the subject surface is perpendicular to the axis and one of the distances measured is within a predetermined range.

13. (New) The image taking device according to claim 12, further comprising a guiding portion that outputs guidance so that the subject surface is perpendicular to the axis by producing different signs between a first case where it is determined that the subject surface is perpendicular to the axis and a second case where it is determined that the subject surface is not perpendicular to the axis.

14. (New) An image taking device for taking an image of an object by focusing reflected light from the object on a light receiving portion, comprising:

a measuring portion that measures a first distance between the object and the image taking device at a first time and a second distance between the object and the image taking device at a second time;

a gain control portion that controls an output gain of the electric signal in accordance with at least one of the first distance measured and the second distance measured;

a still determining portion that determines whether the object is still in accordance with the first distance measured and the second distance measured;

an image taking portion that takes the image if it is determined by the still determining portion that the object is still and at least one of the first distance measured and the second distance measured is within a predetermined range.

15. (New) An image taking device for taking an image of an object by focusing reflected light from the object on a light receiving portion, comprising:

a measuring portion that measures a distance between the object and the image taking device;

a gain control portion that controls an output gain of the electric signal in accordance with the distance measured;

an image taking portion that takes the image if it is determined by the measuring portion that the distance is within a predetermined range;

a background storage portion that stores a background image that is taken when the object is not detected; and

an extracting portion that extracts a part of the object from the image by comparing the background image with the image.

16. (New) A method for taking an image of an object by using an image taking device that focuses reflected light from the object on a light receiving portion, the method comprising:

measuring a first distance between the object and the image taking device at a first time and a second distance between the object and the image taking device at a second time;

controlling exposure time of the light receiving portion upon taking the image in accordance with at least one of the first distance measured and the second distance measured;

determining whether the object is still in accordance with the first distance measured and the second distance measured; and

taking the image if it is determined in said determining that the object is still and at least one of the first distance measured and the second distance measured is within a predetermined range.

17. (New) A method for taking an image of an object by using an image taking device that focuses reflected light from the object on a light receiving portion, the method comprising:

measuring a distance between the object and the image taking device;

controlling exposure time of the light receiving portion upon taking the image in accordance with the distance measured;

taking the image if it is determined in said measuring that the distance is within a predetermined range;

storing a background image that is taken when the object is not detected; and

extracting a part of the object from the image by comparing the background image with the image.

18. (New) A computer-readable storage storing a computer program for controlling an image taking device including a light receiving portion for receiving reflected light from an object and a distance measuring sensor, the computer program which when executed by a computer makes the computer execute a process comprising:

measuring a first distance between the object and the image taking device at a first time and a second distance between the object and the image taking device at a second time;

controlling exposure time of the light receiving portion upon taking the image in accordance with at least one of the first distance measured and the second distance measured;

determining whether the object is still in accordance with the first distance measured and the second distance measured; and

taking the image if it is determined in said determining that the object is still and at least one of the first distance measured and the second distance measured is within a predetermined range.

19. (New) A computer-readable storage storing a computer program for controlling an image taking device including a light receiving portion for receiving reflected light from an object and a distance measuring sensor, the computer program which when executed by a computer makes the computer execute a process comprising:

measuring a distance between the object and the image taking device;

controlling exposure time of the light receiving portion upon taking the image in accordance with the distance measured;

taking the image if it is determined in said measuring that the distance is within a predetermined range;

storing a background image that is taken when the object is not detected; and

extracting a part of the object from the image by comparing the background image with the image.